

REMARKS

The related applications section of the specification has been updated, as suggested by the Examiner, and its terminology harmonized.

Claims 1 and 4 have been amended to correct typographical errors.

Claims 1 to 8 remain in the application. Among these, claim 1 is the single independent apparatus claim.

Reexamination and reconsideration are respectfully requested in view of the amendments and the remarks that follow.

Claims 1 to 8 stand rejected under 35 U.S.C. §102(e) based on Lynn et al US 5,591,337 (Lynn '337). On its face, Lynn '337 was filed December 22, 1993 (which is the earliest priority date to which the instant application is entitled) and further claims CIP status to Application Serial No. 121,344 (the '344 Application), which was filed September 14, 1993 (i.e., earlier than the instant applications priority date of December 22, 1993). A continuation of the '344 Application issued as US 5,507,904 (the '904 Patent) (a courtesy copy of which is attached). The Examiner will note that the '904 Patent does not encompass the entire disclosure of Lynn '337. The '904 Patent fails to disclose the technical features of the filter assembly as defined in claim 1; namely, "a filter pad assembly comprising at an inlet layer, an outlet layer, and at least one intermediate layer that comprises a fiber filter media." The '904 Patent also fails to disclose the technical features of the peripheral seal as defined in claim 1; namely, "a peripheral seal formed by the application of radio frequency heating and pressure in a single step to join the first and second flexible housing elements directly to the filter pad assembly, the peripheral seal comprising a commingled melted matrix comprising material of the first and second housing elements and fiber filter media of the filter pad assembly." This subject matter found in Lynn '337 does not get the benefit of the September 14, 1993 filing date under 35 U.S.C. §102(e), but rather gets the benefit of the December 22, 1993 filing date. Because the instant application claims the benefit of the same priority date (December 22, 1993), Lynn '337 is not prior art to the instant application under 35 U.S.C. §102(e) with respect to the subject matter not disclosed in the '904 Patent.

The Examiner is therefore respectfully requested to withdraw his rejection of claim 1 to 8 based upon Lynn '337.

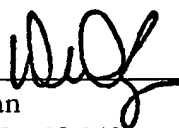
The claims also stand rejected on the grounds of nonstatutory obviousness-type double patenting based upon US 5,591,337; US 6,422,397; US 6,367,634; and US 6,745,902. Applicant respectfully submits that it is premature to address the double patenting rejections and submit terminal disclaims (if warranted) at this time, until the rejection of claim 1 to 8 based upon Lynn '337 is withdrawn and allowable subject matter is otherwise indicated, but for the Examiner's double patenting considerations.

The applicant notes that copies of the Excerpts from EP Opposition EP 684,867 (European Counterpart of Lynn et al. US 5,591,337 including D(1) to D(7), US 4,157,967; and European Patent No. 0155005 were not provided with the Information Disclosure Statement filed 1-21-04, and were therefore not considered. Applicant responds by noting that these documents were cited and copies were previously provided during the prosecution of US 6,422,397 (as to which priority is claimed in the instant application). Accordingly, applicant respectfully submits that it is not required to resubmit copies, and is entitled to have these documents considered.

Allowance of claims 1 to 8 but for double patenting considerations is respectfully requested.

Respectfully Submitted,

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5 July 2006

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Enclosures: Amendment Transmittal
Copy of Patent No. 5,507,904
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